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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,570	01/14/2004	Man-Ho Lawrence Lee	200312986-1	5924

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EXAMINER

CONTINO, PAUL F

ART UNIT	PAPER NUMBER
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2114

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/758,570

Applicant(s)

LEE ET AL.

Examiner

Paul Contino

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-14 and 16-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6, 14 and 16-27 is/are allowed.
- 6) ☒ Claim(s) 7, 8 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION: Final Rejection

Response to Arguments

1. Applicant's arguments filed January 22, 2007, with respect to the prior art rejections of claims 17-21 and 23-27 have been fully considered and are persuasive. The prior art rejections of claims 17-21 and 23-27 have been withdrawn.

2. Claims 7-8 and 10-13 were not argued and thus the rejections under 35 USC 102(e) by Wilson et al. continue to stand as stated in the previous Final Rejection Office Action of November 27, 2006. Because no amendments were made to the claims and the grounds of rejection have not changed, this Office Action designed as Final is considered appropriate.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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3. Claims 7-8 and 10-13 are rejected under 35 U.S.C. 102(e) as being anticipated by Wilson et al. (U.S. Patent No. 7,099,942).

As in claim 7, Wilson et al. discloses a system for fault-tolerant processing, comprising:

a processor unit (*Figure 1 #110*) configurable to communicate with other components in the system via at least two switching fabrics (*Figure 1 #120,130; column 5 lines 8-17*); and computer instructions stored on a computer readable medium and operable to:

maintain a connectivity condition score (CCS) for each communication path along the at least two fabrics based on connectivity errors experienced on the path (*column 6 lines 26-32, health score*), wherein the number of connectivity errors during previous observation time periods are factored into a corresponding CCS during an observation time period (*column 5 lines 60-67, column 6 lines 20-23, and column 7 lines 27-35, where it is interpreted that every update of a path element fault is cumulative, and therefor factors in previous fault observations*) and the CCSs are utilized to determine whether the processor unit will continue to be included in the system (*column 7 lines 5-60, where immediate servicing implies that a processor unit will not continue to be included in the system*).

As in claim 8, Wilson et al. discloses the severity of each connectivity error is factored into the corresponding CCS (*column 6 lines 27-67 and column 10, Tables 1 and 6A*).

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As in claim 10, Wilson et al. discloses the processor unit is further configured to communicate the CCSs to at least one of the other components in the system (*column 7 lines 60-67, where external systems 180 and 190 are interpreted as other components*).

As in claim 11, Wilson et al. discloses summarizing each set of CCSs into a single score (*column 17 lines 9-48, Table 8*).

As in claim 12, Wilson et al. discloses normalizing each set of CCSs based on the single score (*column 17 line 66 through column 18 line 5*).

As in claim 13, Wilson et al. discloses computer instructions executable by the processor unit and operable to: transform the normalized CCSs into a condensed format (*column 17 line 67 through column 18 line 5*).

Allowable Subject Matter

4. Claims 1-6, 14, and 16-27 are allowed.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Contino whose telephone number is (571) 272-3657. The examiner can normally be reached on Monday-Friday 9:00 am - 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PFC
2/12/2007



SCOTT BADERMAN
SUPERVISORY PATENT EXAMINER